

# **MINUTES OF THE OPEN SESSION**

## **OF THE RHODE ISLAND ETHICS COMMISSION**

**January 28, 2014**

**The Rhode Island Ethics Commission held its 2nd meeting of 2014 at 9:00 a.m. at the Rhode Island Ethics Commission conference room, located at 40 Fountain Street, 8th Floor, Providence, Rhode Island, on Tuesday, January 28, 2014, pursuant to the notice published at the Commission Headquarters, the State House Library, and electronically with the Rhode Island Secretary of State.**

**The following Commissioners were present:**

**Ross Cheit, Chair    Mark B. Heffner\*\***

**Deborah M. Cerullo SSND, Vice Chair    John M. LaCross**

**John D. Lynch, Jr., Secretary\*    Edward A. Magro**

**Frederick K. Butler    James V. Murray**

**Also present were Edmund L. Alves, Jr., Commission Legal Counsel; Kent A. Willever, Commission Executive Director; Katherine D'Arezzo, Senior Staff Attorney; Staff Attorneys Jason Gramitt, Nicole B. DiLibero and Amy C. Stewart; and Commission Investigators Steven T. Cross, Peter J. Mancini and Gary V. Petrarca.**

**At 9:04 a.m. the Chair opened the meeting. The first order of**

**business was the approval of minutes of the Open Session held on January 14, 2014. Upon motion made by Commissioner Cerullo and duly seconded by Commissioner Magro, it was**

**VOTED: To approve minutes of the Open Session held on January 14, 2014.**

**AYES: Edward A. Magro; Deborah M. Cerullo; John M. LaCross; Frederick K. Butler; Ross Cheit.**

**ABSTENTIONS: James V. Murray**

**\*Commissioner Lynch arrived at 9:06 a.m.**

**The next order of business was advisory opinions. The advisory opinions were based on draft advisory opinions prepared by the Commission Staff for review by the Commission and were scheduled as items on the Open Session Agenda for this date. The first advisory opinion was that of:**

**James A. Seveney, a member of the Portsmouth Town Council, requesting an advisory opinion regarding whether the Code of Ethics prohibits him from appearing before the Portsmouth Zoning Board of Review relative to the construction of a deck for his primary residence.**

**Staff Attorney Stewart presented the Commission Staff**

recommendation. The Petitioner was present. Upon motion made by Commissioner Murray and duly seconded by Commissioner LaCross, it was unanimously

**VOTED:** To issue an advisory opinion, attached hereto, to James A. Seveney, a member of the Portsmouth Town Council.

**\*\*Commissioner Heffner arrived at 9:12 a.m.**

The next advisory opinion was that of:

Sean J. McGarry, a former member of the New Shoreham Town Council (“Town Council”), requesting an advisory opinion regarding whether the Code of Ethics prohibits his business, Block Island Recycling Management, from bidding on new contracts through an open and public bidding process for services that it currently performs for the Town of New Shoreham.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was not present. Staff Attorney Stewart stated that the Commission issued Advisory Opinion 2013-37 to the Petitioner on November 18, 2013, and that he resigned from the Town Council the following day. In response to Chair Cheit, Staff Attorney Gramitt stated that he has previously conducted Ethics training sessions on Block Island but he believed it had been approximately four (4) years since the last training. Chair Cheit

stated that the fact that the Petitioner's business has had these contracts for ten (10) years is compelling in this situation. However, he regretted that the Petitioner did not see that this would have been a conflict prior to seeking election to the Town Council. Upon motion made by Commissioner Butler and duly seconded by Commissioner Magro, it was unanimously

**VOTED:** To issue an advisory opinion, attached hereto, to Sean J. McGarry, a former member of the New Shoreham Town Council.

The next order of business was a legislative update for the 2014 Legislative Session presented by Staff Attorney Gramitt. He stated that he regularly identifies bills that impact the Commission and reports to the Commission prior to taking any action. He provided the Commission with a copy of Senate Resolution 2034, which would create a ballot question to restore the Commission's jurisdiction over the General Assembly. He noted that this Resolution was identical to Resolutions seen in prior years. In response to Commissioner Butler, Staff Attorney Gramitt informed that similar Resolutions did not make it out of committee last year. He added that in prior testimony he has stated that the Ethics Commission's position has to do with the intent of the people who voted to amend the state's Constitution and the people should have a choice again to clarify whether the Commission was meant to have jurisdiction over the General Assembly.

**The next order of business was the Director's Report. Executive Director Willever reported that there were eleven (11) complaints pending, nine (9) of which were for the non-filing of financial statements. He also stated that there was one (1) advisory opinion and one (1) litigation matter pending. He stated that three (3) APRA requests were granted since the last meeting, all of which were completed within one (1) business day.**

**At 9:24 a.m., upon motion made by Commissioner Cerullo and duly seconded by Commissioner Lynch, it was unanimously**

**VOTED: To go into Executive Session, to wit:**

**a) Motion to approve minutes of Executive Session held on January 14, 2014, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).**

**b) In re: Gordon Fox, Complaint No. 2013-5, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).**

**The Commission reconvened in Open Session at approximately 10:07 a.m. The next order of business was a motion to seal the minutes of the January 28, 2014, Executive Session. Upon motion made by Commissioner Magro and duly seconded by Commissioner Heffner, it was unanimously**

**VOTED: To seal the minutes of the January 28, 2014, Executive**

**Session.**

**Chair Cheit reported that during Executive Session the Commission unanimously approved an Informal Resolution & Settlement in the matter of In re: Gordon Fox, Complaint No. 2013-5.**

**[Reporter's note: The Commission also voted to approve the minutes of the Executive Session held on January 14, 2014.**

**The vote was as follows:**

**AYES: Edward A. Magro; Deborah M. Cerullo; John M. LaCross; Frederick K. Butler; Mark B. Heffner; Ross Cheit.**

**ABSTENTIONS: James V. Murray; John D. Lynch, Jr.]**

**The next order of business was New Business. There being none, at 10:09 a.m. upon motion made by Commissioner Magro and duly seconded by Commission Cerullo, it was unanimously**

**VOTED: To adjourn.**

**Respectfully**

**submitted,**

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**John D. Lynch, Jr.**

**Secretary**